



City of Austin Purchasing Office

Certificate of Exemption for Professional Services, Public Health and Safety or Other Exempt Purchase (Non-Competitive)

DATE: 10.29.2021

DEPT: EDD

TO: Purchasing Officer or Designee

FROM: Laura Odegaard

PURCHASING POC: Diana.McIntosh@austintexas.gov

PHONE: 1 (512) 974-6345

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure unless the expenditure falls within an exemption listed in Section 252.022.

Refer to Local Government Code 252.022 for a complete list of exemptions:

[Link to Local Government Code](#)

The City has selected a vendor for contract award and declares the competitive solicitation procedures in Local Government Code Chapter 252.022 to be exempt for this procurement. This Certificate of Exemption is hereby executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized and certifies that the following exemption is applicable to this procurement.

Please check the criteria listed below that applies to this request:

- A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of a municipality.
- A procurement necessary to preserve or protect the public health or safety of the municipality's residents.
- A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.
- A procurement of personal, professional, or planning services
- Other exemption from Chapter 252.022: _____

2. Describe this procurement

- What it is for and why it is needed?
Grant administration services to support the implementation of a Council-requested CLEAR and ANCHOR Fund
- Describe the following (as applicable):
 - **For Public Calamity, Public Health and Safety, Unforeseen Damage to Public Machinery or Equipment, or Critical Business Need Exemptions:**
 - Provide description of the event leading to the procurement and a business justification for this purchase.
 - What would be the impact to department operations and the community if this purchase was not made?
 - How and why this vendor was selected?

COVID-19 calamity. If this purchase was not made, we would not have the ability to implement the program, and necessary recovery funding would not flow to arts and culture non-profits. Capable administrative organizations were interviewed, scored, and the top scoring organization was selected.

- **For Professional, Personal, or Planning Service Exemptions:**
- **For Other Exceptions from Chapter 252.022:**
 - Explain the circumstances of the procurement.
- **Prices were determined to be reasonable based on the following (select all that apply):**
 - Prices are established under a current Cooperative contract.
Notes: **At a minimum, note the contract number, contract title, cooperative entity, and government or entity who created the contract.**
 - Prices are the same or similar to current City contract.
Notes: **At a minimum, note the City of Austin contract number and title.**
 - Prices are the same or similar to current contract with another government.
Notes: **At a minimum, note the contract number, title and government that created the contract.**
 - Prices are on a current and publicly available list price, for the same or similar products, available to all government and commercial customers.
Notes: **At a minimum, note the list price title, source of the list price (catalog and catalog publish date or web address and download date).**
 - Prices are established by law or regulation.
Notes: **At a minimum, note the legal or regulatory reference that established the prices.**
 - Other means of determining Price Reasonableness.
Notes: **Describe any other source that was used to establish Price Reasonableness.**

* The questions in the form are designed to justify why this purchase should be exempt from a competitive procurement process. Failure to provide adequate documentation to substantiate the request may lead to the request being rejected.

This memo outlines the process used to select a third-party administrator for directives of [Resolution No: 20200507-023](#) directing the City Manager to develop an initial program to support small and local businesses and non-profit entities facing hardship. This support will be provided to small businesses through the Commercial Loans for Economic Assistance & Recovery (CLEAR) Fund. Support to non-profit entities will be provided through the Austin Non-Profit & Civic Health Organizations Relief (ANCHOR) Fund.

Selection Process

The Economic Development Department (EDD) Staff established and conducted targeted interviews with local organizations that demonstrated expertise in administering large grant programs and/or were established organizations already serving communities that would be target populations for these funds. In total, EDD staff invited the following organizations to interview for a grant administration function:

- Austin Revitalization Authority
- BCL of Texas
- **Better Business Bureau**
- BiG Austin
- Black Women in Business
- Capital Area Council of Governments (CAPCOG)
- Capital CDC
- EGBI
- Mission Capital
- People Fund
- Texas Rio Grande Legal Aide

All organizations but Black Women in Business, CAPCOG, Texas Rio Grande Legal Aide and Capital CDC were interviewed.

The interviews consisted of seven open-ended questions, (see attached) and were not specific to either the CLEAR or ANCHOR Funds, specifically. Questions were designed to ensure a third-party administrator could provide the following services specific to the administration of the grant program:

- Outreach, Marketing and Education with equitable reach as a consideration
- Program Development (as needed)
- Program Management and Communications
- Intake and Eligibility
- Case Management
- Funds Disbursement
- Data Collection and Reporting

Additionally, questions inquired on possible conflicts of interest, the organization's experience with administration, organizational capacity, and overall understanding of the City of Austin's desire to allocate funds to those most in need and in accordance with the City's equity values.

All interviewed organizations had the capacity to administer grants, aside from Mission Capital, who expressed a preference for providing technical assistance to non-profit organizations but not providing direct funding. Across the organizations, there was variation in capacity (i.e., the scale of funds they could deploy), in comfort with target audiences (i.e., some organizations were more comfortable with businesses than non-profits), in technical sophistication (i.e., their ability to leverage technology in making applications and data accessible), and in their administrative rates for supporting the City of Austin grant programs.

Third Party Recommendation

Staff's recommendation is to contract with the Better Business Bureau (BBB) for administration Austin Arts & Culture Non-Profit Relief Grant. BBB provided many strengths in the interview including:

- Significant staff resources to allocate to administration
- Ability to generate marketing and outreach collateral
- Experience reviewing applications against established criteria, as done under BBB's business accreditation program
- A lower administration fee (5%) than other organizations (~10%)
- Strong understanding of the types of businesses and non-profit entities affected by COVID-19 and the related economic slowdown
- Turnkey systems for grant processing and case management
- Capacity to provide data and reporting on program outcomes on a frequent basis

BBB has the capacity to provide administration services and we have used them in the past for similar covid work (for the CLEAR, ANCHOR, Creative worker relief and CDBG-CV funds) and, and from a City of Austin perspective, there are efficiencies to derive from a single administrator of grant funds (e.g., processes for one grant program can be replicated for the Austin Arts & Culture Non-Profit Relief Grant).

3. Forward the completed and signed Certificate of Exemption to the Purchasing Office along with the following documentation:
- Scope of Work or Statement of Work (if applicable)
 - Vendor's proposal/quote (if applicable)
 - Project timeline with associated tasks, schedule of deliverables or milestones, and proposed payment schedule
 - Professional resumes, certifications, and/or licenses (Professional, Personal or Planning Services Only)
 - Other supporting documentation

4. Because of the above facts and supporting documentation, the City of Austin exempts this procurement from Local Government Code Chapter 252 and intends to contract with:

(Vendor Name): Better Business Bureau Incorporated

(Description of Procurement): Funding of the CLEAR and ANCHOR Fund Programs.

Check the contract type (one-time or multi-term) and fill in the dollar amount and term as applicable:

This is a one-time request for \$1,483,900.00

This is a multi-term contract request for _____ (# months for base term) in the amount of \$ _____ with _____ (# of renewal options) for \$ _____ each for a total contract amount of \$ _____.

Recommended Certification Originator *James Odgers* Date 10/29/2021

Approved *Stephanie Kell* November 2, 2021
 Certification Department Director or designee Date

Rodney Gonzales November 5, 2021
 Assistant City Manager / General Manager
 Date
 or designee (procurement requiring Council approval)

Purchasing Office _____
 Review Authorized Purchasing Office Staff Date

Purchasing Office _____
 Management Review Purchasing Officer or designee Date
 (If required due to signature authority level)